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NOTIFICATION OF ELECTION

(PCT Rule 61.2)

To:

Assistant Commissioner for Patents United States Patent and Trademark Office Box PCT Washington, D.C.20231 ETATS-UNIS D'AMERIQUE

Priority date (day/month/year)

18 September 1998 (18.09.98)

Date of mailing (day/month/year)
28 April 2000 (28.04.00)

International application No.
PCT/EP99/07003

Applicant's or agent's file reference
AJB/P32147

Applicant

HAYES, Jerome, Francis et al

15 September 1999 (15.09.99)

International filing date (day/month/year)

The designated Office is hereby notified of its election made: X in the demand filed with the International Preliminary Examining Authority on: 29 March 2000 (29.03.00)	د جون د جون
in a notice effecting later election filed with the International Bureau on:	
2. The election X was	
made before the expiration of 19 months from the priority date or, where Rule 32 appli Rule 32.2(b).	ies, within the time limit under

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland **Authorized officer**

C. Villet

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WO 98/42705

PCT/KR98/00051

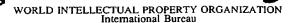
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WHAT IS CLAIMED IS:

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- 1. 7-(3-Aminomethyl-4-methoxyiminopyrrolidin-1-yl)-1-cyclopropyl-6-fluoro-4-oxo-1,4-dihydro-1,8-naphthyridine-3-carboxylic acid methanesulfonate.
- 2. 7-(3-Aminomethyl-4-methoxyiminopyrrolidin-1-yl)-1-cyclopropyl-6-fluoro-4-oxo-1,4-dihydro-1,8-naphthyridine-3-carboxylic acid methanesulfo-nate.nH₂O, wherein n is in the range of from 1 to 4.
- 3. A compound according to claim 2 wherein n is 1.5.
- 4. A compound according to claim 2 having peaks at $2\theta = 8.0$, 12.2 and 14.7° in its X-ray diffraction pattern.
- 5. A compound according to claim 2 having an X-ray diffraction pattern substantially as shown in Figure 7.
- 6. A compound according to claim 2 wherein n is 3.
 - 7. A compound according to claim 2 having peaks at $2\theta = 7.7$ and 11.8° in its X-ray diffraction pattern.
 - 8. A compound according to claim 2 having an X-ray diffraction pattern substantially as shown in Figure 6.
 - 9. A compound according to claim 2 which has a moisture content of from 4 to 6%.
 - 10. A compound according to claim 2 which has a moisture content

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INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

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(22) International Filing Date:

15 September 1999 (15.09.99)

(30) Priority Data:

9820405.0

18 September 1998 (18.09.98) GB

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(72) Inventors; and

- (75) Inventors/Applicants (for US only): HAYES, Jerome, Francis [GB/GB]; SmithKline Beecham Pharmaceuticals, Old Powder Mills, Near Leigh, Tonbridge, Kent TN11 9AN (GB). WALSGROVE, Timothy, Charles [GB/GB]; SmithKline Beecham Pharmaceuticals, Old Powder Mills, Near Leigh, Tonbridge, Kent TN11 9AN (GB). WELLS, Andrew, Stephen [GB/GB]; SmithKline Beecham Pharmaceuticals, Old Powder Mills, Near Leigh, Tonbridge, Kent TN11 9AN (GB).
- (74) Agent: BLAKEY, Alison, Jane; SmithKline Beecham, Corporate Intellectual Property, Two New Horizons Court, Brentford, Middlesex TW8 9EP (GB).

(81) Designated States: AE, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CR, CU, CZ, DE, DK, DM, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW, ARIPO patent (GH, GM, KE, LS, MW, SD, SL, SZ, TZ, UG, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI patent (BF, BJ, CF, CG, Cl, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

Published

With international search report.

Before the expiration of the time limit for amending the claims and to be republished in the event of the receipt of amendments.

(54) Title: PROCESS FOR THE PRODUCTION OF A NAPHTHYRIDINE CARBOXYLIC ACID DERIVATIVE (METHANESUL-FONATE SESQUIHYDRATE)

(57) Abstract

The present invention relates to an improved process for the production of the methanesulfonate sesquihydrate which comprises direct salt and hydrate formation. According to the invention there is provided a process for the production of 7-(3-aminomethyl -4-syn -methoxyiminopyrrolidin -1-yl)-1 -cyclopropyl -6-fluoro -4-oxo-1, 4-dihydro -1, 8-naphthyridine -3-carboxylic acid methanesulfonate sesquihydrate which comprises reacting 7-(3-aminomethyl -4-syn -methoxyiminopyrrolidin -1-yl)-1 -cyclopropyl -6-fluoro -4-oxo-1, 4-dihydro -1, 8-naphthyridine -3-carboxylic acid of formula (1) having antibacterial activity and methanesulfonic acid in a solvent comprising at least onw water miscible cosolvent and water, and isolating the resulting solid product.

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Codes used to identify States party to the PCT on the front pages of pamphlets publishing international applications under the PCT.

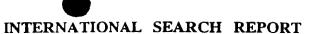
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Intel onal Application No PCT/EP 99/07003

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A. CLASSII IPC 7	FICATION OF SUBJECT MATTER C070471/04	·	•						
According to	o International Patent Classification (IPC) or to both national classification and	IPC							
B. FIELDS	SEARCHED								
Minimum do IPC 7	Minimum documentation searched (classification system followed by classification symbols) IPC 7 C07D								
	ion searched other than minimum documentation to the extent that such doc								
	ata base consulted during the international search (name of data base and,	where practical. search terms u	ised)						
C. DOCUME	ENTS CONSIDERED TO BE RELEVANT	· · · · · · · · · · · · · · · · · · ·							
Category '	Citation of document, with indication, where appropriate, of the relevant pa	sages	Relevant to claim No.						
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Υ	WO 96 39406 A (HANDANYAN LYNNE A ;JOH PHILLIP J (US); MORRIS THOMAS A (US); 12 December 1996 (1996-12-12) * see page 1, formula 1, and page 4, preparation A * the whole document	1-10							
Y .	WO 91 02526 A (PFIZER) 7 March 1991 (1991-03-07) the whole document	1-10							
X Furth	ner documents are listed in the continuation of box C.	Patent family members are lis	ited in annex.						
*Special categories of cited documents: "A" document defining the general state of the art which is not considered to be of particular relevance "E" earlier document but published on or after the international filing date "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified) "O" document referring to an oral disclosure, use, exhibition or other means "P" document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone with one or more other such document is combined with one or more other such documents, such combination being obvious to a person skilled in the art. "A" document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art. "&" document member of the same patent family Date of the actual completion of the international search report									
	1 January 2000	01/03/2000	·						
		orized officer Stellmach, J							

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Inte onal Application No PCT/EP 99/07003

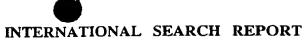
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C.(Continua	ation) DOCUMENTS CONSIDERED TO BE RELEVANT		
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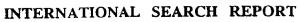


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WO	9961420	 А	02-12-1999	NONE			





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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's	or agent's file referen	FOR FURTHER ACTI	~ • • • • • • • • • • • • • • • • • • •	ation of Transmittal of International Examination Report (Form PCT/IPEA/416)
		International filing date (day)		Priority date (day/month/year)
PCT/EP9	l application No.	15/09/1999	·	18/09/1998
	l Patent Classification	on (IPC) or national classification and IPC		10/05/1000
Applicant SMITHKL	INE BEECHAM	P.L.C. et al.		
		ninary examination report has been prese applicant according to Article 36.	pared by this Inte	rnational Preliminary Examining Authority
2. This F	REPORT consists	of a total of sheets, including this co	ver sheet.	
b	een amended and	accompanied by ANNEXES, i.e. sheets I are the basis for this report and/or sh d Section 607 of the Administrative Ins	ets containing re-	ctifications made before this Authority
These	annexes consist	of a total of sheets.		
3. This r	eport contains ind	lications relating to the following items:		
1	☑ Basis of the	e report		
II	☐ Priority			
Ш	☐ Non-establi	ishment of opinion with regard to nove	ty, inventive step	and industrial applicability
IV	Lack of unit	ty of invention		
V		statement under Article 35(2) with regand explanations suporting such statement		entive step or industrial applicability;
VI	⊠ Certain do			
VII	⊠ Certain def	ects in the international application		
VIII	⊠ Certain obs	servations on the international applicat	on	
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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/EP99/07003

. This report has been drawn on the basis of (substitute sheets which have been furnished to the receiving Off response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed the report since they do not contain amendments (Rules 70.16 and 70.17).): Description, pages:								
	1-4		as originally filed					
	Clai	ms, No.:						
	1-10)	as originally filed					
	Drav	wings, sheets:						
	1		as originally filed					
2.	With lang	regard to the lang uage in which the	guage, all the elements marked above were available or furnished to this Authority in the international application was filed, unless otherwise indicated under this item.					
	These elements were available or furnished to this Authority in the following language: , which is:							
		the language of a	translation furnished for the purposes of the international search (under Rule 23.1(b)).					
		the language of p	ublication of the international application (under Rule 48.3(b)).					
	Ċ	the language of a 55.2 and/or 55.3).	translation furnished for the purposes of international preliminary examination (under Rule					
 With regard to any nucleotide and/or amino acid sequence disclosed in the international application international preliminary examination was carried out on the basis of the sequence listing: 								
		contained in the ir	nternational application in written form.					
		filed together with	the international application in computer readable form.					
		furnished subsequ	uently to this Authority in written form.					
		furnished subsequ	uently to this Authority in computer readable form.					
		The statement that the international a	at the subsequently furnished written sequence listing does not go beyond the disclosure in application as filed has been furnished.					
		The statement that listing has been for	at the information recorded in computer readable form is identical to the written sequence urnished.					
4.	The	amendments hav	e resulted in the cancellation of:					
		the description,	pages:					
		the claims,	Nos.:					

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/EP99/07003

		the drawings,	sheets:					
5.	This report has been established as if (some of) the amendments had not been made, since they have bee considered to go beyond the disclosure as filed (Rule 70.2(c)):							
		(Any replacement she report.)	et contain	ning such	amendments must be referred to under item 1 and annexed to this			
6.	Add	itional observations, if	necessary	y:				
V.		soned statement und tions and explanation			ith regard to novelty, inventive step or industrial applicability; the statement			
1.	Stat	rement						
	Nov	relty (N)	Yes: No:	Claims Claims	1-10			
	inve	entive step (IS)	Yes: No:	Claims Claims	1-10			
	Indu	ustrial applicability (IA)	Yes: No:	Claims Claims	1-10			

2. Citations and explanations see separate sheet

VI. Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted: see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made: see separate sheet

EXAMINATION REPORT - SEPARATE SHEET

SECTION V -----

1. Prior art

Documents (1) - (10), which were cited in the International Search Report and the Written Opinion are considered to represent relevant prior art in this Preliminary Examination Report; the numbering will be adhered to in the rest of the procedure.

- (1) EP-A-0 688 772
- (2) WO-A-96/39 406
- (3) WO-A-91/02526
- (4) EP-A-0 805 156
- (5) EP-A-0 058 614
- (6) JP-A-3,056,479
- (7) WO-A-97/36 874
- (8) WO-A-97/07 098
- (9) WO-A-98/42 705
- (10) WO-A-99/61 420

2. Novelty

- Documents (9) and (10) are only relevant for the purposes of Rules 33.1 c, 2.1 64.3 and 70.10 PCT (see also part VI, certain documents) and are thus not taken into account for the Preliminary Examination Report. If the priority date is not valid for the complete subject-matter, documents (9) and (10) may become relevant prior art in a possible regional / national phase.
- The process of claim 1 refers to the production of a specific naphthyridine 2.2 carboxylic acid methane sulfonate sesquihydrate by reacting the carboxylic acid with

INTERNATIONAL PRELIMINARY Inte

methane-sulphonic acid and water together with a cosolvent. In citation (1) the synthesis of the carboxylic acid is described. On page 9, line 33-36, the preparation of the methane-sulphonic acid salt (acid addition salt) is suggested. Citations (2) - (6) describe the preparation of methane sulfonate and sesquihydrates of various Naphthyridines and quinolones. Citations (7) and (8) describe the preparation of methane sulfonate di- and tri-hydrates of structurally remote pharmaceutically active compounds. Since none of the cited prior art documents describes the preparation of the specific compound of the claimed process, the requirements of Article 33 (2) PCT are met for claim 1 and its dependant claims 2- 10.

3. Inventive step

- 3.1 For the assessment of inventive step (Article 33 (3) PCT) of the claimed subject-matter, a document has to be identified which represents the closest prior art for the claimed process. Starting from the document (1), the first technical problem underlying the application in suit (Article 33 (3) PCT, Rule 5.1 (a) (iii) PCT) can be considered to be the provision of a process for the production of the specific naphthyridine carboxylic acid methane sulfonate sesquihydrate of present claims 1-10. This problem is solved by reacting the carboxylic acid with methane sulphonic acid and water together with a cosolvent.
- 3.2 The reaction is in general known from (1) (6). It is known from citation (2) that e.g. the methane sulfonate monohydrate of a **naphthyridine carboxylic acid** is formed by reacting the **carboxylic acid** with **methane sulphonic acid** in a mixture of a water and a cosolvent. Claim 1 is thus to be considered as a **process of analogy**. Accordingly, the skilled man would regard the choice of the specific **naphthyridine** compound according to the similar process in the prior art to be useful in order to yield the **methane sulfonate sesquihydrate**. All what is needed is a basic understanding of the principles of Organic chemistry.
- 3.3 Analogous processes yielding known products are only inventive if a surprising effect is made credible in comparison with the closest prior art e.g. if the yield of the process or the quality of the product were better. The notional skilled person was provided with a clear hint from the prior art pointing him in the direction of the claimed process, and it was only necessary to confirm experimentally that the highly probable result was in fact obtained. The necessity of experimental confirming a reasonably expected result (in the present case which specific hydrate was actually yielded by the respective analysis) does not render an invention unobvious. The features described

INTERNATIONAL PRELIMINARY International application No. PCT/EP99/07003 EXAMINATION REPORT - SEPARATE SHEET

above are merely ones of several possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill in order to solve the problem posed. The skilled man having knowledge of the teaching of documents (1) - (8) with a reasonable expectation of success would expect that the process as claimed in claim 1 would yield methane sulfonate hydrate having a basic understanding of elementary Organic Chemistry. No positive contribution to inventive step can be seen in solving this particular problem, because the skilled man would expect the claimed process to be suitable for his purpose i.e. without the exercise of inventive skill in order to solve the problem posed. The Applicant's attention is furthermore drawn to the to the fact that the Examining Division must satisfy itself that the problem is actually solved. Moreover, it is common practice that the modifying feature should not only characterize the invention in the claim, i.e. distinguish it from the prior art, but must contribute causally to the improvement of the capability thereby achieved. Given the claimed process to be expected to yield the product, an inventive step could only be recognized if the Applicant could demonstrate that the presently claimed process illustrates actually surprising effects in comparison with the closest prior art i.e. only if the solution of the problem underlying the present application is an process - a process which has unforeseeable advantages over the prior art, an inventive step in the sense of Article 33 (3) PCT could be recognized.

The Applicant in his letter dated 21.9.00 has argued that citation (1) does not refer to hydrated forms of the claimed quinoline carboxylic acids. It is respectfully submitted that formula (I) of claim 1 refers to any solvate of the compounds and it is common general knowledge that hydrates are specific solvates. Moreover, the argumentation that the fact that in the analogous processes of documents 7 and 8 dihydrates and trihydrates were produced would render the claimed process inventive is not convincing. As already outlined in the Written Opinion all what the skilled person has to do is to verify which hydrate is actually formed when the chemical process was performed and this is confirmed by the Applicant 's statement. Also the reference to document (9), in ex. 3 of which methane sulfonate sesquihydrate is produced in a similar process, does not render the claimed process inventive. The statement that the product, the methane sulfonate sesquihydrate is novel and inventive is not substantiated. On the contrary, in test example 5 it is stated that the sesquihydrate has the same chemical stability as the anhydrate. Moreover, it is for consideration whether at least claim 1 of the application in suit is novel in a possible national phase. a proof for the improved solubility and constant moisture content appears to be missing.

3.5 Finally, it is realized that the Applicant is entitled to claim all obvious modifications of what he has described and that alternative variations have to be supported by a certain number of examples. Furthermore, the extent of a "reasonable generalisation" only depends upon the question of the relative distance to the prior art compounds. It is stressed that only such variants of the processes can be claimed which are a solution to the above stated problem i.e. which illustrate the alleged unexpected effects.

4. Industrial applicability

No objection re industrial applicability of claims 1 - 10 arises insofar the claimed process would illustrate unexpected effects (**Article 33 (4) PCT**).

SECTION VII -----

- 1. Since the documents (2) (8) and (10) were not identified in the description and the relevant background art disclosed therein was not be briefly discussed, the requirements of **Rule 5.1** (a) (ii) **PCT** are not met..
- 2. Depending upon the actual technical problem which is solved by the application, to meet the requirements of Rule 6.3 (b) PCT the independent process claim 1 should be properly cast in the two part form, with those features which in combination are part of the prior art.

SECTION VIII-----

The Applicant is informed that the breadth of the claims has to be such that it comprises only variants which are able to solve the problem underlying the alleged invention being a prerequisite for the acknowledgement of inventive step (**Article 33 (3) PCT**).



(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference			of International Search Report, where applicable, item 5 below.
AJB/P32147	ACTION	1 01/10A/220/ as well as,	, where applicable, item 3 below.
International application No.	International filing date (day/mont	h/year) (Earliest) P	riority Date (day/month/year)
PCT/EP 99/07003	15/09/1999	·	18/09/1998
Applicant			
·			•
SMITHKLINE BEECHAM P.L.C	et al.		
This International Search Report has be according to Article 18. A copy is being			ansmitted to the applicant
This International Search Report Consis	sts of a total of 4 sh	eets.	
l 	by a copy of each prior art document of	•	٥
	•		•
Basis of the report	•	e seet of the control of	
	ne international search was carried out unless otherwise indicated under this it		national application in the
the international search Authority (Rule 23.1(b))	was carried out on the basis of a tran	slation of the internationa	application furnished to this
b. With regard to any nucleotide was carried out on the basis of	and/or amino acid sequence disclos	ed in the international app	plication, the international search
l ,	itional application in written form.		• .
filed together with the in	nternational application in computer re-	adable form.	
furnished subsequently	to this Authority in written form.		
furnished subsequently	to this Authority in computer readble t	orm.	
the statement that the sinternational application	subsequently furnished written sequent as filed has been furnished.	ce listing does not go bey	rond the disclosure in the
the statement that the infurnished	nformation recorded in computer reads	able form is identical to th	e written sequence listing has been
	ه.	·* ·	·
2. Certain claims were fo	ound unsearchable (See Box I).		
3. Unity of invention is la	acking (see Box II).		0
4 With regard to the title			
4. With regard to the title,	submitted by the applicant.		
	lished by this Authority to read as follo	WE'	
	UCTION OF A NAPHTHYRID		ACID DERIVATIVE
(METHANESULFONATE SE		INE OF THE OF TH	NOTO DENTINITATE
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5. With regard to the abstract,		·	•
the text is approved as	submitted by the applicant.	•	
the text has been estab	lished, according to Rule 38.2(b), by the date of mailing of this international	nis Authority as it appears search report, submit con	s in Box III. The applicant may, mments to this Authority.
6. The figure of the drawings to be pu	blished with the abstract is Figure No.		<u></u>
as suggested by the ap	plicant.		None of the figures.
because the applicant f	ailed to suggest a figure.		•
because this figure bett	er characterizes the invention.	•	

Box III TEXT OF THE ABSTRACT (Continuation of item 5 of the first sheet)

The present invention relates to an improved process for the production of the methanesulfonate sesquihydrate which comprises direct salt and hydrate formation. According to the invention there is provided a process for the production of 7-(3-aminomethyl-4-syn-methoxyiminopyrrolidin-1-yl)-1-cyclopropyl-6-fluoro-4-oxo-1,4-dihydro-1,8-naphthyridine-3-carboxylic acid methanesulfonate sesquihydrate which comprises reacting 7-(3-aminomethyl-4-syn-methoxyiminopyrrolidin-1-yl)-1-cyclopropyl-6-fluoro-4-oxo-1,4-dihydro-1,8-naphthyridine-3-carboxylic acid of formula I having antibacterial activity

and methanesulfonic acid in a solvent comprising at least one water miscible cosolvent and water, and isolating the resulting solid product.

Form PCT/ISA/210 (continuation of first sheet (2)) (July 1998)

	TICI/Er 99/0/003
A. CLASSIFICATION OF SUBJECT MATTER IPC 7 C07D471/04	,
According to International Patent Classification (IPC) or to both national classification	ation and IPC
B. FIELDS SEARCHED	
Minimum documentation searched (classification system followed by classification IPC 7 C07D	on symbols)
1107 0070	
Documentation searched other than minimum documentation to the extent that s	uch documents are included in the fields searched
Electronic data base consulted during the international search (name of data base	se and, where practical, search terms used)
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C. DOCUMENTS CONSIDERED TO BE RELEVANT	
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Further documents are listed in the continuation of box C.	χ Patent family members are listed in annex.
° Special categories of cited documents :	"T"-later document published after the international filing date
"A" document defining the general state of the art which is not considered to be of particular relevance	or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E" earlier document but published on or after the international	"X" document of particular relevance; the claimed invention
"L" document which may throw doubts on priority claim(s) or	cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
which is cited to establish the publication date of another citation or other special reason (as specified)	"Y" document of particular relevance, the claimed invention cannot be considered to involve an inventive step when the
"O" document referring to an oral disclosure, use, exhibition or other means	document is combined with one or more other such docu- ments, such combination being obvious to a person skilled
"P" document published prior to the international filing date but later than the priority date claimed	in the art. "&" document member of the same patent family
Date of the actual completion of the international search	Date of mailing of the international search report
31 January 2000	01/03/2000
Name and mailing address of the ISA	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL – 2280 HV Rijswijk	
Tel. (+31-70) 340-2040, Tx. 31 651 epo ni, Fax: (+31-70) 340-3016	Stellmach, J

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